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TECHNOLOGY CENTER R3700

RESPONSE TO FINAL OFFICE ACTION

EXTENSION OF TIME

I hereby request a two-month extension of time beyond the three-month deadline for response to the Final Action of October 01, 2002. The fee of \$205.00 for a small entity is enclosed.

TERMINAL DISCLAIMER IN COMPLIANCE WITH 37 CFR 1.321 (c)

In compliance with the Examiner's request, I enclose herewith a Terminal Disclaimer To Obviate A Provisional Double Patenting Rejection Over A Pending Second Application, no. 09/823,569, to overcome the non-statutory double claiming rejection. I also enclose herewith a Terminal Disclaimer To Obviate a Double Patenting Rejection Over A Prior Patent of mine, patent no. US 6,402,147 B1, to overcome the nonstatutory double patenting rejection the Examiner might raise. The total applicable fees under 37 CFR 1.20(d), \$110.00, are enclosed for the aforementioned Terminal Disclaimers.

REMARKS

In the Final Office Action, claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb in view of Kadlic and further in view of Lo (a prior patent of mine, 5,863,042). I respectfully disagree with this conclusion. Reconsideration of the application under my arguments below is respectfully requested.

Regarding claims 1, 2 & 4-20

Webb: Like many popular casino games: Blackjack, Caribbean Stud, Let It Ride, Three Card Poker, Webb teaches a card game with a plurality of players, providing and shuffling at least one standard poker deck of 52 cards, each player placing at least one bet, and resolving games and wagers. Although the said games have these aforementioned strikingly similarities, but their other components and rules of play had been proved to be patentably distinct from each other, as a result, thus, the games like Caribbean Stud (patent # 4,948,134 & 5,122,060), Let It Ride (patent #5,280,081 & 5,437,462) and Three Card Poker (one of Webb's patented games, #5,685,774) have been patented. In my view, the key components and rules of play that make the said patented games differ from each other are: 1) What and how many types of bets does the game offer ? 2) Does each player's hand play against or have something to do with a banker's hand? 3) How many cards does each hand receive? 4) Are any card or cards discarded or replaced with new cards drawn from the remaining deck? 5) How is each bet played out to determine whether each wager wins, loses or ties? 6) How is each wager settled against the banker? Items 5) and 6) are generally deemed to be the most important elements. The following vast differences between Webb and my present invention shall overcome the cited references over Webb, making my present invention being patentably distinct from Webb; and they are :

1. Webb teaches each player places a basic Double Hand wager against the dealer's hand and an optional Copy Hand wager betting on the events that the player and dealer have a High Hand Copy Hand, Low Hand Copy Hand, or both copy hands before cards are dealt. While my present invention teaches each player places a Poker Bet wager against the Banker's hand and/or one or more of seven side wagers on each player's hand only before cards are dealt.
2. Both of Webb's Double Hand wager and Copy Hand wager have something to do with the dealer's hand. Only the Poker Bet wager, one of the eight wagers of my present invention, has something to do with the dealer's hand and the remaining seven wagers have nothing to do with the dealer's hand.
3. Webb teaches every player and the dealer each is dealt six cards and a Wild Indicia, totaling seven cards per hand; the Wild Indicia can be a promotional card, a Joker or an implicit card; and from the seven cards every player and the dealer each then arranges their seven cards into two hands, 5-card High hand and 2-card Low hand, and because a hand consisting of six cards and the Wild Indicia would produce a huge number of ways of arranging the cards into two hands, it requires skill and costs an inordinate amount of time to set a hand in an optimal way, in other words, in order to maximize a player's expected return, each player needs a player optimal strategy to set each player's hand, and in order to maximize a dealer's expected return the dealer needs a dealer optimal strategy called House Way to set the dealer's hand; a game that requires skill would intimidate prospective players from trying it and make it difficult for dealers to manage the game.

While my invention teaches that every player and a dealer each is dealt six cards from a standard deck of 52 cards plus at least one Joker, preferably two Jokers, and every player and the dealer each then selects his or her best 5-card poker hand and discards the worst card from the six dealt cards; because it is only one optimal way to set a hand in my present invention, prospective players are likely to try my game, and this simplicity enables a dealer managing the game easily. Ultimately, my present invention would make every player, novice and experienced, feel like an expert of the game.

4. Webb teaches none of seven cards (six dealt cards and one Wild Indicia) being discarded. My present invention teaches to select and keep the best 5-card poker hand and discard one card from each six-dealt-card hand, enhancing the enjoyment of players by giving players the chance of getting rid of their worst and unwanted card.
5. Webb teaches that to win a Double Hand wager, both of a player's high and low hands must rank higher than both of the dealer's high and low hands; if the player wins one hand and loses the other, then the player's Double Hand wager is a push; and if both of the player's high and low hands rank lower than both of the dealer's hands, the player's wager loses; moreover, the rules of Copy Hands are taken into consideration in resolving the wagers, and this would complicate the game. Webb also teaches that to win a Copy Hand wager, the high hand, low hand, or both of the player must rank the same as the high hand, low hand, or both of the dealer's hands respectively.

In my present invention, a Poker Bet wager is resolved according to one of three sets of rules, whichever is selected for the game, wherein a player's best 5-card poker hand is compared to the dealer's best 5-card poker hand; and each of the seven wagers is resolved as that if a player's best 5-card poker hand is one of the predetermined winning hands, the player wins and is paid according to a predetermined pay table; since all the bets of my present invention have nothing to do with a player's and a dealer's High hand and Low hand, and complex Copy Hand rules of Webb, it would seem much simpler, faster, more fun to play than Webb, and it would look very appealing to prospective players.

6. Webb does not define how a winning Double Hand wager is paid but rely the incidence of Copy Hands and the use of Wild Indicia to provide an adequate house advantage (see column 4, lines 64-67); and Webb teaches that a winning Copy Hand wager is paid according to a predetermined pay table of the copy hands. While my present invention teaches a winning Poker Bet wager is paid according to one of three sets of rules, whichever is selected for the game, in which a winning Poker Bet wager is paid Even Money in most cases; and a winning specified bet wager is paid according to a predetermined pay table designed for such specified bet, a completely different pay table from Webb.

Kadlic discloses the game American Canasta. His game teaches each player selects which of the initial seven cards to hole and which to discard, and replacement card(s) from the original 106-card deck are drawn for the card(s) which have been discarded.

While my present invention teaches each player selects and keeps his or her best 5-card poker hand and discards one worst card from his or her six dealt cards, and no replacement card is drawn; this simplifies the process and expedites the game play. Kadlic fails to teach cards being discarded in a simple way like the teaching of my present invention.

Lo (my prior patent, No. 5,863,042): Although my present invention and my prior patent, both teach wagers being placed on Specified bets, and use predetermined winning hands and payoff amounts which are well known in the art, however, it is far more than matter of design choice to make the predetermined winning hands and payoff amounts in this case as desired due to the following facts:

1. The predetermined winning hands and payoff amounts of my prior patent are based on a 5-card-dealt hand. While the predetermined winning hands and payoff amounts of my present invention are based on the best 5-card poker hand selected from a 6-card-dealt hand.
2. The predetermined winning hands of my prior patent include One Pair, Two Pair, 3 of a Kind, Full House and 4 of a Kind, excluding traditional ranks of Straight and Flush. While the predetermined winning hands of my present invention include a greater variety of winning hands, and they are Two Pair, 3 of a Kind, Straight, Flush, Full House, 4 of a Kind, Straight Flush, Royal Flush and 5 of a Kind, enhancing the winning chance of a player. It is obvious that the predetermined winning hands of the two games differ vastly.

3. It is not an easy task to create a new game that is wild enough to capture the heart of players and profitable enough to worth the space it takes on the casino floor. To achieve this goal, a game inventor has to come up a new game with simple rules of play and runs numbers for things like odds, payoff amounts, and house advantage to make it easy to learn, fun to play and fast paced. Oftentimes, the predetermined winning hands of two games with two different rules of play and two different number of cards per hand differ vastly, i.e. the chances of having a 3 of a Kind hand or the frequency of occurrence of a 3 of a Kind hand is about 2.11% in a 5-card-dealt hand and is about 4.6% in a best 5-card poker hand selected from a 7-card-dealt hand, assuming that both versions use a standard poker deck of 52 cards. And for this reason, applying the same payoff amounts of a 5-card game for a 7-card game definitely does not work. As a result, my prior patent fails to disclose the identical predetermined winning hands and identical payoff amounts as outlined in the limitation of my present invention, and they are patentably distinct from each other.

Furthermore, many patented casino games like Progressive Pai Gow Poker (patent #4,836,553 & #5,374,067), Jackpot Pai Gow (patent #5,078,405 & 5,707,287), Wheel Of Madness (patent #5,707,285) and Caribbean Stud Poker (patent #4,861,041 & 5,122,060), teach different predetermined winning hands and different predetermined pay tables and have been patented for these patentable differences.

Regarding claim 3 & 21

Webb teaches the use of a standard deck of 52 cards plus one Wild Indicia, which could be a joker (see Abstract and col. 3, lines 41-43); and the Wild Indicia is used as a community wild card or joker, which is shared by each player and the dealer at the same time, knowing that the opponent also having a joker, a player would feel little excited or does not feel excited at all when the player has a wild card or joker; furthermore, this Wild Indicia is not required be shuffled. While my present invention teaches the use of a standard deck of 52 cards plus at least one joker, which is always shuffled randomly along with the rest of the cards; because each joker is not a community card, a player would feel very excited when the player has one or more jokers, knowing that the opponent has no joker or has a slimmer chance of getting one or more jokers. It is obvious that Webb fails to teach the numbers of jokers, the type and function of each joker which is disclosed in my present invention.

Accordingly, in my view, the combination of three different references to assert the "obviousness" of the invention claimed in this application is not consistent with the requirement to determine on a claim-by-claim basis whether the invention as a whole would be made obvious by these references to a worker of ordinary skill in the subject matter.

I wish to point out that the design of a new card game that will fulfill the requirements for being acceptable in a casino or card room is far from an obvious matter of design substitution or combining elements from previous games. As disclosed in the present application, an advantage of the present invention is that the game "is easy and fun to play using familiar elements of poker. If the rules of a new game are too different from

what is familiar to the prospective players, they are unlikely to try it; that is, it would take the prospective player an inordinate amount of time to become facile in learning the rules of play, evaluating hands and making bets. On the other hand, a new game should have enough differences from conventional games in the casino or card room to attract the interest of aficionados who might have become bored with those that are all too familiar.

Furthermore, to be economically attractive as a casino game, the game must provide a house advantage that is great enough to give the casino a fair return on investment while not so large as to cause regulatory authorities to refuse to license the game. Moreover, the game also must give players the sense of winning; in other words, the prospective players must perceive the odds as being reasonable, as compared with other games offered in competition therewith. This balancing of the "house advantage" with relative familiarity and ease of play is a matter of creative skill and judgment as applied by the Applicant to the invention of new games, including the present invention.

Thus, it is inappropriate for the Examiner to pick and choose from among the rules of other existing games by the exercise of hindsight from reading the present patent disclosure, and thereby to cobble together something resembling the set of rules for the present game, which I have developed through exercise of skill and ingenuity. That is, there are far more sets of rules which could be generated by the same exercise which would not satisfy the requirements for being a valid and interesting casino game, and it is only hindsight based on reading my description that would cause the reader to make such a combination.

CONCLUSION

The objective of my present invention is to give players a much longer and more enjoyable gaming experience while giving casinos a fair return on investment. Thus, it is designed to be that decisions are minimal, pace is fast and atmosphere social. It is novel and clearly defined over the prior art of Webb, Kadlic and Lo, and is not a merely obvious combination of elements from them. I believe that the foregoing Arguments shall reasonably overcome the claim rejections under 35 U.S.C. 103(a) as being unpatentable over Webb in view of Kadlic and further in view of Lo in this Final office Action. I cordially invite the Examiner to contact me for a telephone interview regarding this case.

NOTICE OF APPEAL

As a precaution, I am submitting herewith a Notice of Appeal, in case the Examiner does not allow the application based on the foregoing arguments. The fee of \$160.00 for a small entity is enclosed.

Respectfully submitted,



**Henry Tien Lo, Applicant
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Date: March 03, 2003